

# Order

Michigan Supreme Court  
Lansing, Michigan

May 27, 2015

Robert P. Young, Jr.,  
Chief Justice

ADM File No. 2014-42

Stephen J. Markman

Mary Beth Kelly

Brian K. Zahra

Bridget M. McCormack

David F. Viviano

Richard H. Bernstein,  
Justices

Retention of the Amendments of  
Rules 6.006, 6.104, 6.110, and 6.111  
of the Michigan Court Rules and  
Retention of Adopted New Rule 6.108  
of the Michigan Court Rules; Adoption  
of Revisions of Rules 6.108 and 6.110 of  
the Michigan Court Rules

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By order dated December 22, 2014, the Court adopted an order amending Rules 6.006, 6.104, 6.110, and 6.111 of the Michigan Court Rules and adopted new Rule 6.108 of the Michigan Court Rules, effective January 1, 2015. Notice and an opportunity for public comment having been provided, the amendments of these rules and new Rule 6.108 are retained.

On further order of the Court, effective immediately, the Court adopted additional amendments of Rules 6.108 and Rule 6.110 of the Michigan Court Rules.

[Additions to the text are indicated in underlining and deleted text  
is shown by strikeover.]

## Rule 6.108 The Probable Cause Conference

(A) [Unchanged.]

(B) A district court magistrate may conduct probable cause conferences when authorized to do so by the chief district judge and may conduct all matters allowed at the probable cause conference, except taking ~~felony~~ pleas and ~~felony sentences~~ imposing sentences unless permitted by statute to take pleas or impose sentences.

(C) [Unchanged.]

(D) The district court judge must be available during the probable cause conference to take ~~felony~~ pleas, ~~and~~ consider requests for modification of bond, and if requested by the prosecutor, take the testimony of a victim.

(E) [Unchanged.]

#### Rule 6.110 The Preliminary Examination

- (A) Right to Preliminary Examination. Where a preliminary examination is permitted by law, the people and the defendant are entitled to a prompt preliminary examination. ~~If the court permits the defendant to waive the preliminary examination, it must bind the defendant over for trial on the charge set forth in the complaint or any amended complaint.~~ The defendant may waive the preliminary examination with the consent of the prosecuting attorney. Upon waiver of the preliminary examination, the court must bind the defendant over for trial on the charge set forth in the complaint or any amended complaint. The preliminary examination for codefendants shall be consolidated and only one joint preliminary examination shall be held unless the prosecuting attorney consents to the severance, a defendant seeks severance by motion and it is granted, or one of the defendants is unavailable and does not appear at the hearing.
- (B) Time of Examination; Remedy.
- (1) [Unchanged.]
- (2) Upon the request of the prosecuting attorney, the preliminary examination shall commence immediately at the date and time set for the probable cause conference for the sole purpose of taking and preserving the testimony of the victim, if the victim is present, as long as the defendant is either present in the courtroom or has waived the right to be present. If victim testimony is taken as provided under this rule, the preliminary examination ~~may proceed~~ will be continued at the date originally set for that event.
- (C) Conduct of Examination. A verbatim record must be made of the preliminary examination. Each party may subpoena witnesses, offer proofs, and examine and cross-examine witnesses at the preliminary examination. The court must conduct the examination in accordance with the Michigan Rules of Evidence.
- (D)-(I)[Unchanged.]


*Staff Comment:* The Court retained the amendments that became effective January 1, 2015, and adopted additional amendments of MCR 6.108 and MCR 6.110 to provide further clarification as suggested in comment letters received by the Court.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 27, 2015

  
Clerk